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ABSTRACT

This monograph discusses the safety of vehicles owned, leased, maintained, and operated by colleges and universities. First, the risks by colleges and universities is discussed. First, the risks associated with college vehicles are outlined, including the liability that comes with staff/faculty and student drivers and such special concerns as driver licensing and testing requirements, alcohol use, drowsiness, and pollution and hazardous wastes. An accident scenario, notes on relevant case law, and some statistics are presented here. A second section addresses institutional management of risks in four areas: (1) policies and procedures (driver qualifications, driver training and testing, driver obligations, and motor vehicle records); (2) the vehicles (purchase and sale considerations, vehicle use policy, maintenance and inspections, vehicle and maintenance records, and accident management); (3) insurance needs (necessary coverage, coordination of insurance policies, rental car and leased vehicle concerns); and (4) special considerations such as contracts for transportation and limited liability for non-owned vehicles. Anecdotes concerning vehicle claims, motor vehicle fatality statistics, sample policy language, a list of driver obligations, driver training options, a vehicle liability checklist, notes on institutional record-keeping responsibilities, sample vehicle maintenance policies, a maintenance checklist, definitions of insurance terms, and a list of resources are also included in this section. (MSE)

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Vehicle Safety

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INTRODUCTION

The university's wrestling club has a match at a college three hours away by car. One of the team members checks out a university van and drives the team to the game. After the game, the team stops for dinner, and they are on the road by 9:30 p.m. Only the driver is wearing his seat belt. The passengers soon start to doze, and the driver finds himself getting sleepy. His drowsy state combined with his limited experience in driving the van cause him to lose control of the vehicle. The van goes off the road, killing one person and seriously injuring several others.

This scenario represents one of the most potentially severe liability exposures at colleges and universities: an inexperienced student driver operating a van on a long drive for a college-related event. In 1994, a lawsuit involving a student driver transporting a team in a van ended with a judgment against the college for over $2 million. (*See* Clement v. Griffin, *page 4.*)

Vehicle usage is a common liability exposure for all employers. According to the National Safety Council, in 1994 vehicle accidents were responsible for 38 percent of all work-related deaths and 6 percent of all disabling workplace injuries. Vehicle accidents were the leading cause of unintentional injury deaths from birth to age 78. Among UE's GLX (excess) claims, approximately 16 percent have involved vehicle use.

Vehicle liability is by far one of the most difficult risk management issues for colleges and universities. The widespread use of both school-owned vehicles and personal vehicles driven on university business creates a pervasive exposure that is difficult to control. How can colleges and universities manage this serious liability? Each institution should identify the risks related to vehicle usage, review its vehicle use policies and procedures, and be sure it carries proper insurance.

THE ISSUE

It seems that every year we hear of a tragic accident involving a college student driving a school van carrying multiple occupants. These incidents remind us of the importance of promoting vehicle safety on our campuses. Some factors in vehicle safety will always be outside of an institution's control such as weather and road conditions, other drivers on the highways, and — a recent controversy — established speed limits on interstates. But there are steps colleges and universities can take to promote safety and help manage vehicle liability. This monograph reviews the development of institutional policies for vehicle use as well as the related insurance policies needed to protect the campus community. We encourage you to share copies of this monograph with everyone involved in developing and administering your institution's vehicle policy.

—Burt Sonenstein, President

THE VEHICLES

Colleges and universities own, lease, and maintain cars, vans, buses, ambulances, farm equipment, trailers, and incidental motorized equipment such as lawn mowers, golf carts, and other utility vehicles. At some universities, exposures may exist for experimental motorized vehicles designed and built by students in engineering programs.

In most jurisdictions, motorized equipment must be licensed if it is used on a public road. Vehicles licensed for the public road are insured under a business-auto form. Vehicles designed primarily for off-road use will usually be insured under an institution's general liability policy.

In addition to the institution's owned or leased vehicles, schools are also exposed to loss from non-owned (personal, borrowed, or rented) vehicles driven on school-related business by faculty, staff, or students; vehicles driven on campus by outside contractors or vendors; and third-party contract transportation services such as a campus bus system or limousine/taxi service.

WHAT ARE THE RISKS?

THE DRIVERS

Staff/faculty drivers create the most common liability exposures for colleges and universities. Not only do employees frequently operate motor vehicles on university business, but they often carry passengers. Employees run errands for their departments, transport themselves and colleagues to meetings and conferences, drive students on field trips, and host prospective students and employees visiting the campus. Staff drivers who operate snow plows or heavy equipment can create a direct liability exposure if they are not properly trained to operate the special equipment they use.

Student drivers present a difficult risk management problem given their youth and relative lack of driving experience. Some of the most serious and significant losses incurred by higher education involve students driving school-owned vans with multiple occupants going to and from out-of-town activities.

Student drivers using personal vehicles to transport fellow students on field trips create another serious exposure. Faculty will frequently recruit student drivers for special activities in an effort to save money within tight departmental budgets. This creates a situation in which the student drivers and their vehicles become an institutionally-approved or endorsed form of transportation. Should a student's poor driving or unsafe vehicle result in an accident, the institution may be held liable.

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CASE LAW

Clement v. Griffin. *Members of a college baseball team brought an action against the college (and others) after they suffered injuries in an accident. The plaintiffs alleged that the college was negligent in selecting the driver of the van in which they were riding (the driver was a student coach) and in maintaining the van. The court found that the school did in fact breach its duty to properly maintain the van and that the breach caused the accident. The court also found that the school was negligent in allowing the defendant to drive because he did not possess a chauffeur's license required for passenger vans, and because the school violated its own internal rule prohibiting students from driving vans. The plaintiffs were awarded $2.2 million.*[3]

Jones v. Iowa Central Community College. *Plaintiff was a member of the college basketball team riding in a van driven by the coach and owned by the college. Plaintiff suffered injuries in an accident in which the van's seats broke free and tilted backward, pinning the passengers under the seats in front of them. Plaintiff brought suit against the school and the coach. After finding the college negligent, the jury awarded the plaintiff $270,000.*[4]

Volunteers are an integral part of a college community. However, because they frequently fall outside the direct control of an institution, they are not always included in a university's safety training program. Nevertheless, volunteers may still be deemed agents of the university, and as such their liabilities can be imputed back onto the institution. When practical, volunteers should be clearly (and tactfully) told that they should only drive on university errands when specifically asked to do so by a staff member or when using a university vehicle.

SPECIAL CONCERNS

Licensing and Testing Requirements

A driver is required to obtain a commercial driver's license (CDL) with the proper endorsements if he or she drives a vehicle designed to transport 16 or more persons (the driver and 15 passengers), or with a gross weight of 26,001 lbs. or more. This rule applies whether or not the driver is carrying passengers in the vehicle.

Under the final rules of the Omnibus Transportation Employee Testing Act of 1991 published in February of 1994, colleges and universities are required to conduct pre-employment/pre-duty, reasonable suspicion, random, and post-accident alcohol and controlled substances testing of each applicant for employment or employee who must have a CDL. Institutions with 50 or more drivers with CDLs as of March 17, 1994 had a compliance date of January 1, 1995. Organizations with fewer than 50 drivers with CDLs as of March 17, 1995 had a compliance date of January 1, 1996.

To avoid liability concerns related to privacy, institutions may choose to have drug testing conducted by a third party.

Alcohol Use

Over 45 percent of all traffic fatalities in 1992 involved an intoxicated or alcohol-impaired driver or pedestrian, according to studies of the National Highway Safety Administration's Fatal Accident Reporting System. With the exception of Massachusetts and South Carolina, as of July 1, 1995 all states had laws defining it as a crime to drive with a blood alcohol concentration at or above a proscribed level, usually .10 percent.[1]

In a 1994 study conducted by the Harvard School of Public Health, a large proportion of the student population surveyed reported driving under the influence of alcohol. Binge drinkers, particularly frequent

binge drinkers, reported significantly higher frequencies of dangerous driving behaviors than non-binge drinkers.[2]

Institutions should strictly prohibit anyone from operating a vehicle on a college-related activity if he or she has been drinking, or if he or she has had a DUI (driving under the influence) conviction within the last 18 months.

Drowsiness

The U.S. Department of Transportation estimates that 240,000 accidents are caused by drowsy drivers every year, and falling asleep behind the wheel may cause up to 10,000 fatalities annually. The average driver is most likely to feel drowsy between 2 a.m. and 6 a.m, according to the AAA Foundation for Traffic Safety. Other contributors to drowsy-driving include vehicle comforts such as cruise control, cushioned seats, and quiet, temperature-regulated environments; straight roads; dull landscapes; repetitive patterns; and overeating before driving.

For colleges and universities, accidents caused by drowsiness are a significant concern in the context of club sports in which competitions are frequently scheduled late in the day when facilities are available. To avoid accidents caused by drowsy drivers, institutions may want to limit the number of hours or the number of miles that can be driven in a 24-hour period for a university-sponsored activity. Or, schools might require that relief drivers be approved and available when a long drive is necessary.

Pollution and Hazardous Wastes

Under the Motor Carrier Act of 1980 (49 USCS §.10101), an institution is liable for any pollution-related incident that occurs during the transportation of a hazardous material. For example, if a professor picks up chemicals at a supply store for a class and is involved in an accident causing the chemicals to spill into the roadway, the institution is responsible for the pollution created.

Universities with research components are likely to generate hazardous wastes such as radioactive materials, explosive compounds, chemicals, carcinogens, and reproductive toxins. The largest exposure in dealing with hazardous wastes is transporting the materials. Whether a university chooses to transport hazardous waste in its own vehicles or through an outside contractor, as the owner/generator of the hazardous material the institution will be liable for any such waste released during an accident. If using an outside contractor, the institution should satisfy itself that the company instructs its drivers how to minimize damage resulting from a spill if there is an accident. The institution should ask to be added as an additional insured to the transportation company's liability policy.

DID YOU KNOW?

- *The legal driving limit for commercial drivers is 10 hours in a 24-hour period.*
- *Nissan Motor Co. is testing an eye movement monitor that sets off an alarm when a driver starts to nod off at the wheel.*
- *According to the AAA Foundation for Traffic Safety, more than half of all crashes caused by persons falling asleep involve drivers under the age of 26. Factors contributing to this are late night party-goers returning home and college students hitting the road right after exams without catching up on sleep.*
- *Youths between the ages of 15-24 account for 25 percent of all motor vehicle deaths.*[3]
- *Motor vehicle accidents result in an injury every 16 seconds and a death every 13 minutes.*[4]

INSURANCE CLAIMS MADE CONCERNING VEHICLE USAGE

- *A university official was driving his school-owned vehicle on a personal trip with his child. Late in the evening, the child went to sleep on the back seat, and the father apparently dozed off and crossed the center line of the highway. The car struck an abutment, killing the father and seriously injuring the child. The medical bills are likely to exceed $200,000.*
- *A student driver in a university-owned vehicle transported five members of a club team home from an away game that ended after midnight. The driver fell asleep at the wheel and struck a disabled tractor trailer, killing one passenger and seriously injuring himself and two others.*
- *The wife of a senior administrator was driving a university-owned vehicle with her husband on a business trip when she fell asleep at the wheel and crossed the center line of a two-lane road. She struck an oncoming vehicle head-on. Her husband and the driver of the other vehicle were killed. A passenger in the other car was seriously injured.*
- *A van transporting 13 students had a blow-out on a highway causing the van to overturn. The accident killed one student and seriously injured several others.*
- *A graduate student employed by the university was driving her own vehicle on university business. She pulled away from a stop sign into the path of an oncoming vehicle. The driver of the other vehicle was killed, and a passenger in the other vehicle was seriously injured. The case was settled by the institution for approximately $800,000.*

MOTOR VEHICLE FATALITY FACTS*

1. *Licensed drivers ages 17-22 accounted for 9.8% of all licensed drivers and 18.4% of all drivers involved in fatal accidents in 1993.*
2. *Of all passenger vehicle deaths in 1994, front impacts accounted for 51% of the deaths, side impacts accounted for 30%, and rear impacts accounted for 4%.*
3. *Trees and shrubs are the most common roadside hazard involved in fatal single-vehicle accidents. After crashes involving trees/shrubs (28%), crashes involving utility poles (10%) and embankments (10%) accounted for the next highest proportions of deaths in single-vehicle accidents involving roadside hazards in 1994.*
4. *Among all male drivers of passenger cars involved in fatal accidents in 1994, 42% had blood alcohol concentration levels of .10 percent or more. The corresponding statistic for women was 21%.*
5. *Of all motor vehicle deaths in 1994, 55% involved passenger cars, 20% involved pickup/utility trucks and large vans, 13% involved pedestrians, and 5% involved motorcycles.*

*Fact (1) is from *Accident Facts*, 1994 Edition, published by the National Safety Council. Facts (2-5) are from *Fatality Facts*, 1995 Edition, published by the Insurance Institute for Highway Safety, Arlington, Va.

HOW TO MANAGE THE RISKS

Practical policies and procedures and proper insurance for vehicle use are essential in managing the associated risks. In addition, vehicle safety must be a priority for everyone on campus from student groups to senior administrators. MADD (Mothers Against Drunk Driving), SADD (Students Against Drunk Driving), auto insurance underwriters, and risk management consultants may all be valuable sources of information, promotional materials, and ideas for highlighting vehicle safety on campus. The campus safety committee, transportation committee, or safety officer can use these resources as part of a campus program to promote vehicle safety.

Policies and Procedures

Ideally, an institution will have one policy for the entire campus that is consistently implemented by all departments. To assure cooperation from all departments, consensus-building will be necessary when developing the policy and procedures. Once the policy is established, compliance by all departments should be monitored by risk management, a transportation safety committee, or a safety officer.

An institution's policy should apply to vehicles owned or leased by the college and to personal or rental vehicles used on college business. The policy should address the following issues: driver qualifications, obligations, and training; approved vehicle use, maintenance, and inspections; and accident reporting and investigation. For each of these aspects of the policy, a central coordinator should be responsible for data collection, record keeping, and discipline in the event of non-compliance.

Driver Qualifications

The policy should outline specific qualifications for drivers of passenger vehicles, vans, and special equipment. The policy should also state any special restrictions on drivers. For example, the athletic department might require that no team member, whether a qualified driver or not, drive the team to or from an event in which that person is a participant.

Driver Training and Testing

An institution may require certain groups of drivers to complete defensive driving courses. All driver training should be done in accordance with state and local laws, using certified instructors.

Some institutions are reluctant to give driving tests for fear of increased liability from having certified a driver whose later performance causes injury. However, if the driver will be operating a vehicle with which he or she is unfamiliar, it is more important that the institution satisfy itself that the individual can safely operate the vehicle.

Driver Obligations

All drivers should be informed of their obligations when driving university or personal vehicles on university business. This information can be disseminated through a variety of channels, including the driver application form (which should be signed as an agreement), driving classes, the vehicle handbook, and the staff, faculty, and student handbooks.

SAMPLE POLICY LANGUAGE—QUALIFICATIONS FOR DRIVERS

A. University-owned Private Passenger Vehicles

1. Must have a valid driver's license in effect for at least two years.

2. Must have driven at least 2,000 miles within the last two years.

3. Must complete a driver history questionnaire form annually.

4. Must complete a vehicle use and regulation form annually.

5. Must not have exceeded two at-fault accidents/violations within the last 18 months or have any violation in the last 18 months for drunk driving, driving under the influence of drugs, or reckless driving, or have a reinstated license in effect less than one year after revocation.

6. If required by the institution, a driver must obtain an abstract of his/her driving history record from the Division of Motor Vehicles and submit it with the forms in steps 3 and 4 for review.

7. Must have successfully completed a defensive driver training course.

8. Must sign a statement agreeing not to drink and drive.

NOTE: State regulations on use of publicly owned vehicles apply for public institutions.

B. Vans (capable of carrying 15 or fewer persons only)

Must satisfy all operator conditions listed above, and

1. Be at least 18 years old.

2. Show evidence of ability to drive a van:

i. Have driven a 12-15 passenger van or motorcoach a minimum of 2,500 miles or at least once a week in the past year, or

ii. Have taken a university-approved training course including classroom and behind the wheel training.

C. Other Vehicles

State law will determine the minimum driver requirements for driving other vehicles.

MOTOR VEHICLE RECORDS

All employees hired as full-time drivers or who have driving responsibilities specifically listed in their job descriptions should have their state motor vehicle records checked at the time of hire and annually thereafter. Records of other employees who drive on university business may be checked on a random basis or with cause. (Be careful to ensure randomness, or the institution may face a possible discrimination or wrongful employment practices charge.) In their employment applications, all employees should give the university permission to check their motor vehicle records.

States may charge anywhere from $10 to $30 to provide a motor vehicle report. If a public safety department is a member of the LEAPS database network, the record of any individual who has been charged with a criminal act involving the use of a car can be checked at no charge. The institution's insurance carrier may also be able to check motor vehicle records without a charge to the institution.

Some institutions require anyone requesting permission to drive a college vehicle (including students, staff, and faculty) to submit a state motor vehicle report with the driver application. An applicant with a poor driving record — e.g., a specific number of accidents or points against the license — should not

DRIVER OBLIGATIONS

The driver agrees that he/she will:

1. *Have a valid driver's license.*
2. *Use school vehicles for authorized business only.*
3. *Not permit any unauthorized person to drive the vehicle.*
4. *Use seat belts or other available occupant restraints and require all occupants to do likewise in accordance with state laws. (The number of passengers should not exceed the number of seat belts.)*
5. *Operate the university vehicle in accordance with university regulations, know and observe all applicable traffic laws, ordinances and regulations, and use safe driving practices at all times.*
6. *Assume all responsibility for any and all fines or traffic violations associated with his/her use of a university vehicle or privately owned vehicle on university business.*
7. *Not drive under the influence of drugs or alcohol.*
8. *Not transport unauthorized passengers such as hitchhikers, family members, or friends.*
9. *File a travel plan if taking an out-of-town trip.*
10. *Turn off the vehicle, remove the keys, and lock the vehicle when it is left unattended.*
11. *Drive the vehicle at speeds appropriate for road conditions.*
12. *Not drive the vehicle "off road" unless it is made for that use.*
13. *Before leaving the parking area or garage, inspect the vehicle for safety concerns, checking tires, wipers, lights, and other safety equipment for observable defects. Report any defects immediately to the prescribed authority to determine if the vehicle is safe to operate.*
14. *Immediately report all accidents or violations to the prescribed authority.*
15. *Be subject to applicable university disciplinary procedures for violations of university policy or rules.*

DRIVER TRAINING

A. Defensive Driving Course (DDC)

University employees hired as drivers are required to complete an 8-hour DDC every two years and following a preventable accident. The institution has a certified DDC instructor and charges departments $30 per participant.

Other employees who may drive university vehicles or their own vehicles on college business are encouraged to attend a DDC every three years.

B. Student Driver Training

Students driving school vehicles are required to attend a 1-hour defensive driving course conducted by a university police department instructor. Classes are offered six times each semester. The average class size is 25.

C. Emergency Vehicle Operators Course (EVOC)

Security, police, and firemen take an EVOC every two years. The course is conducted by state certified instructors at the institution at a cost of $50 per person.

be allowed to drive any vehicle on university business.

The Vehicles

PURCHASE/SALE OF VEHICLES

The first step in assuring the safety of college owned or leased vehicles is to purchase sound vehicles. Some institutions have found safety features such as dual air bags, backup mirrors on vans, and manufacturer's anti-lock brakes to be worth the added expense.

Any vehicle sold by an institution should be sold "as is."

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VEHICLE LIABILITY CHECKLIST

Item	✔	Notes
Which administrative department or committee is responsible for coordinating vehicle safety awareness activities (e.g. posters, pamphlets, special events)?		
Which department, person, or committee is responsible for coordinating the development and uniform enforcement of the vehicle policy and procedures throughout the institution?		
Are your vehicle policies and procedures clearly communicated to students, faculty, staff, and volunteers through: ■ Handbooks (student, faculty, staff, volunteer) ■ Campus media (student paper, staff/faculty newsletters) ■ Driver applications/vehicle check-out forms ■ Other		
Which department or person is responsible for coordinating record keeping on all facets of vehicle use and maintenance?		
Which department maintains the master vehicle list? ■ How often is the list updated?		
Do your vehicle policies and procedures address: ■ Driver qualifications ■ Driver obligations ■ Driver training ■ Driver testing ■ Vehicle use – What are your institution's approved, non-business activities for students/employees using school owned vehicles? – Do you have guidelines for age/mileage restrictions on vehicles used for out-of-town travel? ■ Vehicle maintenance – Pre-use inspections – After-use reports – Preventive maintenance – As-needed repairs ■ Procedures for reporting accidents ■ Disciplinary actions for accidents ■ Guidelines for outside transportation contracts ■ Guidelines for transporting hazardous waste		

VEHICLE LIABILITY CHECKLIST

Item	✔	Notes
Do your procedures stipulate that all keys to vehicles not in use must be kept in a locked drawer or cabinet?		
Which person or department is responsible for ensuring proper reporting of accidents?		
How long does your institution keep accident reports? ■ What is the statute of limitations in your state for auto liability claims for bodily injury or property damage? ■ Who is responsible for analyzing accident data?		
Which person, department, or committee is responsible for approving transportation contracts?		
Do you keep in the glove compartment of every vehicle: ■ Insurance information ■ Maintenance record sheet for pre and post-use inspections ■ Accident report form including the individual/phone number to whom accidents should be reported		
Does your insurance coverage include: ■ Business auto liability form – No fault personal injury protection benefits – Uninsured motorist coverage – Underinsured motorist coverage – Pollution spills coverage – Non-owned vehicle coverage – Drive other car coverage ■ Comprehensive general liability form ■ Excess/umbrella coverage ■ Foreign auto difference in condition ■ Worker's compensation ■ Employee/student health insurance ■ Collision and comprehensive		
Does your institution have clear guidelines for insuring rental cars? ■ One approved rental company with negotiated collision contract ■ Employees choose rental company, but purchase collision insurance ■ Rental insurance is negotiated under the business auto form ■ Coverage is provided by credit card company		
Does your vehicle policy clearly address the issue of using personal vehicles for university travel?		

RECORD KEEPING RESPONSIBILITIES

The vehicle safety coordinator should be responsible for the following:

1. *Be sure proper forms are completed (for example, driving history questionnaire, vehicle use authorization request).*
2. *Maintain and update authorized driver records annually.*
3. *Only allow authorized drivers with valid licenses to operate vehicles; be sure licenses are checked before permitting vehicles to be signed out.*
4. *Determine that the driver has experience in operating the type of vehicle to be driven, that the driver has had a driver's license for at least two years, and that he/she has driven at least 2,000 miles in that time (by checking the driving history questionnaire).*
5. *Facilitate the dissemination of information regarding driving rules and regulations, safe driving practices, and hazards of the road.*
6. *When appropriate, assist the Department of Risk Management and Insurance in any accident investigation or information gathering activity.*
7. *Request state records on all employees who may operate a vehicle on official university business in accordance with the institution's policy.*

SAMPLE VEHICLE MAINTENANCE POLICIES

Policy 1

The department shall institute a quarterly review of all maintenance and service records to assure their appropriateness and schedule regular routine maintenance, including inspections and registrations.

Policy 2

All university vehicles are maintained/serviced by the university's Transportation Services Department. Depending on usage, vehicles are serviced and inspected according to the university's vehicle checklist. Servicings and inspections are conducted on a quarterly basis. Transportation Services has the right to remove a vehicle from operations if repairs are necessary. All maintenance and repair costs are charged back to the department.

Transportation Services also conducts annual DOT inspections as required for vehicles weighing over 10,000 pounds and all vehicles that carry 16 or more persons.

VEHICLE USE

No single policy for vehicle use is appropriate for all institutions. Each institution needs to evaluate its own needs, resources (both vehicular and human), and goals when developing a vehicle use policy. For a small, rural college where few of the students own cars, Student Affairs might permit the use of college vehicles for students' personal use, including trips to town, the movies, or the local supermarket. In this case, concern for the students' welfare and a desire to discourage hitchhiking may outweigh the concern for increased auto liability exposures. Such a policy might not be practical at a larger institution. Public institutions may also have to comply with state laws delineating the use of publicly owned vehicles.

VEHICLE MAINTENANCE AND INSPECTIONS

A well-run maintenance and inspection program can inspire driver confidence and improve morale while reinforcing the institution's commitment to vehicle safety. In addition, written records of maintenance and inspection records are critical defense documents in accident investigations and claims handling. A maintenance and inspection schedule should be established and adhered to, and all work on every vehicle, including inspections, should be clearly documented including the date and nature of the work. Vehicles should meet all local, state, federal, and manufacturer's requirements and pass state inspections.

Some institutions may limit the use of vehicles that have

passed a certain age or mileage. For example, a college policy might state that vehicles more than three years old or that have more than 60,000 miles may only be driven locally. This can help prevent mechanical breakdowns on out-of-town trips.

Inspections

A good maintenance program requires frequent, documented inspection of all vehicles, prompt transmittal of the inspection results to the vehicle maintenance department if work is required, and a commitment on the part of everyone not to use an unsafe vehicle. All persons driving college vehicles should be trained in inspection procedures, and every vehicle should be inspected by the driver before it is used.

A post-use inspection is very useful but frequently overlooked by many institutions. The driver can identify any problems experienced in the trip (such as "car pulls to left") in the post-use inspection report, as well as identify any broken components.

Preventive Maintenance

A well-defined and consistently applied preventive maintenance program will result in the lowest total maintenance cost. The basis for any good preventive maintenance program is the manufacturer's recommended program based on a time or mileage basis.

Repair Maintenance

Repair maintenance is done on an "as-needed" basis. Many defects can be found during a driver's pre-trip or post-trip inspection. Others may be found during routine maintenance inspections.

VEHICLE CHECKLISTS

Pre-use Checklist

Drivers should not operate a vehicle until they are satisfied that the following parts and components are in good working order:

- Service brakes
- Parking brakes
- Steering mechanism
- Lights/reflector devices
- Tires/wheels
- Horn
- Windshield wipers/washers
- Rear-vision mirrors
- Coupling devices for towing

Maintenance Records

The maintenance record for each vehicle should include:

- Vehicle identification: make; model; serial number (VIN)
- Institution number (if assigned)
- Special equipment
- Component parts
- Tire size, ply, type and serial number (if applicable)
- The name of the department or individual responsible for the vehicle with address and phone number
- Items inspected, repairs made, date completed, mileage, name of mechanic for each inspection
- Oil change/lubrication date and mileage
- Date/mileage of next inspection and preventive maintenance

Preventive Maintenance

Some typical preventive maintenance activities performed on a time or mileage basis are:

- Oil and filter changes
- Lubrication
- Tightening of components
- Engine tune-ups
- Brake adjustment/rotation
- Tire rotation
- Replacement of engine belts/hoses
- Radiator maintenance

As-needed Repairs

Some typical items that are replaced/repaired when detected are:

- Light bulbs
- Air hoses
- Springs
- Wiring
- Window glass
- Wiper blades
- Seat cushions
- Mirrors
- Fuses

Other items may need to be replaced based on wear found during periodic inspections. These include:

- Tires
- Universal joints
- Clutch
- Bushings/wheel bearings
- Batteries
- Exhaust system

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MASTER VEHICLE LIST

Included in the information should be:

- Vehicle Type (private passenger, truck, tractor)
- Make
- Year
- Model
- Vehicle Identification Number
- Department
- Driver (if assigned, otherwise "pool vehicle")
- Purchase price
- Mileage (updated annually)

VEHICLE AND MAINTENANCE RECORDS

Listing the Vehicles

The university should have a centralized list of all vehicles owned by the institution. This list may be kept by public safety, risk management, or another administrative office. Payment of taxes, registration renewals, state inspections, and insurance may all be coordinated from the central list.

Maintenance Records

Every good maintenance program is supported by complete, up-to-date records using standardized maintenance forms for all vehicles. These records should be established for all vehicles, whether owned or leased, and whether the maintenance is done in the school's own garage or contracted to outsiders. The records are of value in substantiating vehicle warranties, as defense documents in case of an accident, and as a tool to establish the break-even point when a vehicle should be sold (the point where maintenance costs plus depreciation exceed the cost of a new vehicle).

MANAGING ACCIDENTS

Reporting Accidents

The individual driver is responsible for immediately reporting any accident to the institution. Insurance information and an accident report form should be kept in the vehicle's glove compartment. The accident report form should include the title and phone number of the person at the institution the driver should contact if an accident occurs. Basic facts about the accident should be collected on the institution's own accident report form, and all necessary state reporting forms must be completed. (The institution should be sure to get a copy of the police report.) Depending on the vehicle management structure of the institution, the forms may go to public safety, the department vehicle coordinator, or risk management. From there, the report may go to insurance companies, a fleet safety administrator, or a safety committee.

At a minimum, accident reports should be kept until the statute of limitations expires for auto liability claims for bodily injury or property damage under the applicable state law. This can be anywhere from one to five years, depending on the state. It is helpful to maintain records for five to ten years, as proper analysis of loss trends requires this amount of data, and keeping accident records for that period will also be useful in analyzing the effectiveness of safety training programs. If the institution elects to self-insure all or parts of its auto liability risk, accurate historical loss data will help in estimating the necessary actuarial funding.

Accident Investigation and Record Keeping

All accidents should be investigated to determine the cause of the accident. If the driver of the university vehicle was at fault, clear documentation should be made of the findings, and disciplinary proceedings should be carried through consistently.

A vehicle safety committee, the risk management office, or other designated individual or group should review accident information to identify loss trends and determine appropriate loss prevention measures to avoid future losses. For example, if several accidents occur at a particular intersection on campus, the institution should consider changes in traffic controls (stop signs, traffic lights) for the intersection. If backing-up accidents are prevalent, it may be advisable

to retrofit all vehicles with back-up beepers and establish a policy for spotters for vehicles over a designated length.

Ideally, all vehicle information, maintenance information, driver information, and accident reports should be in a centralized, network accessible (and password controlled) relational database. This would enable the institution to track the accident patterns of individuals, vehicles, classes of vehicles, classes of drivers, and specific locations. Centralized records also facilitate updating the information regularly. Unfortunately, many institutions do not have the necessary combination of computer capability, network capability, and administrative interest to expend the time and money to create and maintain such a program. At a minimum, hard copy of this information should be available in one location.

In addition to institutional records, useful accident information can be obtained from other sources. Many institutions can obtain loss runs from their auto insurers that will serve to track all insured accidents. Worker's compensation loss records and OSHA 200 logs can also be useful in determining an institution's accident profile.

Disciplinary Procedures

Disciplinary actions for not following specific policies or for having a specific number of accidents can range from requiring the driver to take a defensive driving course to suspending university driving privileges. The following is an example of a rather stringent institutional policy on discipline:

All accidents are reviewed and investigated by Risk Management & Safety staff to determine if an accident was preventable or non-preventable. If an accident was preventable, the driver is given a written warning. Two preventable accidents within a one-year period result in a three-day suspension without pay. Employees who have three preventable accidents in a two-year period are subject to termination.

Discipline policies should not be harsher than the institution is willing to enforce for its most venerable members. At some institutions, the above policy might be too difficult to enforce for a senior tenured faculty member or the chairman of a department. However, if the policy is not enforced consistently, it leaves the institution vulnerable to claims of discrimination.

All disciplinary actions should be appropriately noted on the driver's record.

Consistency is Important

It cannot be over-emphasized that once policies are determined and published, they must be implemented and enforced consistently throughout the institution. If exceptions and inconsistencies prevail, then the institution increases its risk for claims.

Insurance Needs

Developing appropriate language in the various policies that respond to vehicle liability requires time and effort working with a knowledgeable broker or carrier. Small, routine claims are usually not problematic; it is the big claims — potentially catastrophic losses — that are the test of a good insurance policy.

Effective broad vehicle coverage may require a number of endorsements that respond to specific situations. For example, *Knowledge of Occurrence* covers claims resulting from accidents that are not reported to the proper staff person and therefore not reported to the insurance carrier. *Mental Anguish* will cover claims made by a person involved in an accident who is not physically injured, but suffers emotional distress after witnessing the death or serious injury of others involved in the accident.

Some insurance companies offer packaged endorsements for businesses and institutions.

Policies can be written for three-year periods, and they should be reviewed upon renewal or at least every five years with an internal group and possibly outside consultants.

AUTOMOBILE INSURANCE TERMS*

Collision insurance: *A form of automobile insurance that covers loss to the insured vehicle from its collision with another vehicle or object, but not covering bodily injury or liability also arising out of the collision. Type of coverage which protects insured for damage to his own property in an accident as contrasted with liability insurance which protects him in an action or claim for loss to another's property.*

Comprehensive coverage: *A simple and convenient form of indemnity now commonly available in contracts of automobile insurance. It includes not only the conventional coverage against loss caused by fire, theft, wind, water, or malicious mischief, but is generally designed to protect against all damage to the insured vehicle except collision or upset.*

*From *Black's Law Dictionary*, by Henry Campbell Black, MA, Fifth Edition. St. Paul Minn: West Publishing Co. 1979.

NECESSARY COVERAGES

The following insurance coverages are recommended for an institution's vehicle operations.

Business Auto Liability Policy

No Fault—Personal Injury Protection (PIP) Benefits
This coverage is usually mandated by state law requiring certain minimum limits and provides for the payment of medical expenses and other benefits regardless of fault. This coverage may be either primary or secondary to other coverages (e.g., group health or worker's compensation). In many states, this coverage is very inexpensive and easy to purchase.

Uninsured/Underinsured Motorist Coverage
This is a particularly sensitive issue if an institution gives an employee a university-owned vehicle for personal as well as business use. The university should provide for a reasonable level of limits in case the individual is involved in an accident with an uninsured or underinsured motorist while driving the car on personal travel.

For uninsured motorist coverage, minimum limits by state vary from $15,000 to $50,000. For executive level faculty and staff, $100,000 to $250,000 would be appropriate uninsured limits. The limits should be clearly communicated to the employee so he or she can obtain higher limits if circumstances warrant it.

Depending on the state, uninsured/underinsured motorist coverage might open a loophole if all vehicles in the fleet are covered. If an employee is involved in an accident with an uninsured/underinsured motorist, the employee will be covered by worker's compensation and can also collect from a negligent third party. If the third party is uninsured/underinsured, the university's insurance would pay under the uninsured/underinsured motorist coverage. So essentially, the university would be paying out twice for the same claim.

An alternative method of providing coverage for employees who drive university vehicles on personal travel may be to purchase accidental death and dismemberment policies with high limits for the employees. Between the worker's compensation and the accidental death/dismemberment policy, serious injuries should be covered.

Many institutions have found it is easier to provide an auto allowance for their senior executives rather than providing a university automobile for personal use.

Hazardous Materials
An institution has liability exposure for all hazardous waste that it transports either directly or through an outside contractor. As such, it is advisable to have coverage for potential spills of hazardous waste on a public thoroughfare. (Examples of hazardous materials coverage include the Motor Carrier Act of 1980 Endorsement for institutions that transport hazardous wastes, and the standard MM 9955-07/94 Endorsement for institutions that do not routinely transport hazardous wastes but need coverage for incidental occurrences.)

Non-Owned Vehicles
For most accidents resulting from the operation of non-owned vehicles, whether driven by faculty, staff, or students, the university's program will normally respond on an excess

basis only because in most jurisdictions, insurance follows the vehicle. It is essential to have properly worded non-owned auto coverage, as institutions' indemnification policies often make the institution liable on an unlimited basis for liabilities incurred by its employees in the performance of their duties.

Institutions should be sure there is no limiting language in their policies with respect to the definition of non-owned auto. The Massachusetts Supreme Court recently held that pick-up trucks are not "passenger vehicles" in a coverage dispute between an insured and Lumbermen's Mutual Casualty Company.[7] The policy at issue covered the insured for accidents arising out of the use of *non-owned passenger vehicles*, and the Court upheld the insurance company's denial of coverage for an employee driving his own pick-up truck on college business.

Drive Other Car Coverage

This coverage should be provided if there is any driver who has exclusive use of a university vehicle and has no personal automobile insurance, and would thus have no insurance if he or she drove a non-owned vehicle. For example, the president of the college has the exclusive use of a college vehicle. She owns no other vehicles, and carries no personal auto insurance since the college vehicle is insured by the college. Therefore, she should be listed as a drive other car exposure. If, for example, she borrowed her sister's car on college business, the college would want to have the excess protection of its own policies under the drive other car coverage for both the president and the institution.

Comprehensive General Liability Coverage

Motorized equipment not licensed for use on public roads will be covered under the comprehensive general liability policy. Such vehicles include lawn mowers, farm equipment, and golf-cart type vehicles. Usually no list is required for coverage of these vehicles.

Umbrella/Excess Coverage

One serious van accident with multiple occupants resulting in catastrophic injuries and/or fatalities can result in a loss to an institution of many millions of dollars. Depending on the size of its fleet, excess coverage of $20 to $25 million may be desirable.

Foreign Auto Difference in Condition (DIC)

Foreign travel, study abroad programs, and institutionally-owned and/or leased vehicles in foreign countries create special problems that require a Foreign Auto Difference in Condition program. This insurance expands the coverage provided in the local venue of the foreign country and brings coverage up into the institution's excess layer. It is necessary because maximum limits might be too low (by American standards) in a foreign country.

Some Foreign Auto DIC programs can offer other features, such as 24-hour worker's compensation coverage, that can make this insurance a good management tool.

Worker's Compensation Coverage

Worker's Compensation programs will provide coverage for employees who are injured in a vehicle accident while conducting official college business.

OUTSIDE CONTRACTORS AUDIT

The audit of operations for outside transportation contractors would typically include:

- General information about the company
- Driver information
- Vehicle information
- Safety rating information
- Loss control management
- Driver selection
- Driver training
- Driver supervision
- Accident reporting and investigation
- Vehicle maintenance
- Conclusions
- Overall assessment of audit

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Employee/Student Health Insurance Coverage

Employee and Student Health Insurance plans can provide coverage for medical expenses to employees and students who are injured in vehicle accidents.

Collision and Comprehensive Program

Institutions should carefully consider a decision to self-insure for collision. If an institution's losses are fairly predictable and are generally what the insurance industry would consider to be "expected losses," on the average it will cost 30 percent more to insure for collision coverage than to self-insure this exposure.

COORDINATION OF INSURANCE POLICIES

Coordination of the different insurance coverages will vary depending on the type of incident, the nature of the injuries, and the status of the parties affected. In most jurisdictions, injuries to faculty or staff that occur while they are operating motor vehicles in the course of employment trigger worker's compensation coverage on a primary basis. Injuries to students, guests, and business associates can trigger statutory no-fault benefits, student health insurance, and/or group health coverages that need to be coordinated and will vary from jurisdiction to jurisdiction.

OTHER INSURANCE CONCERNS

Rental Cars

An institution's indemnification policy most likely will require the school to pay claims for accidents incurred by staff and faculty who rent cars for university business. Therefore, it is important that employees have proper insurance on their rental cars.

Most institutions will choose to insure for liability exposures related to rental car use on their auto form, but there are several options institutions may choose from to provide collision insurance on rental cars:

1)Negotiate a collision insurance contract with a rental car company and insist that all college employees rent cars under that contract. This may be difficult to enforce, as employees may be tempted to rent through a different company or use a bargain rate (that does not include the insurance coverage) with the institution's approved rental company in order to save departmental funds.

2)Let the employees pick their own rental car company, but insist they purchase the collision insurance offered by the rental company. Again, this may be difficult to enforce, and it can be an expensive option.

3)Purchase hired/rental car collision coverage as part of the auto insurance policy and select low deductibles.

4)If corporate credit cards are issued for departmental use, an institution may want to investigate rental car insurance options offered by the credit card company.

Leased Vehicles

In most states, institutions that lease vehicles for more than six months will be required to provide insurance for the vehicle.

Special Considerations

CONTRACTS FOR TRANSPORTATION

Many institutions limit their own exposures by not owning vehicles that require commercial

licenses to operate (vans or buses that carry 16 or more persons). They meet their transportation needs by contracting with bus companies. In order to ensure an effective transfer of risk in such circumstances, certain precautions should be taken.

Ideally, one office will be designated to approve all contracts for outside transportation. All companies providing transportation services should be required to provide a certificate showing total insurance limits of $5 to $25 million, depending on the size of the contract. (The insurance may be a combination of auto and excess liability.) Evidence of worker's compensation coverage should also be provided, and the institution must be added as an additional insured to both the auto and excess policies. For occasional charter bus service, $5 million is a reasonable guideline for limits, as that is what the Interstate Commerce Commission requires for all bus transporters who cross state lines.

A second level of precaution can be taken by requiring the service provider to sign a hold harmless and indemnification agreement and agree to a safety and compliance audit of their operations every two years. The audit can be performed by a consultant from the National Safety Council at a cost of approximately $850 per day. The audit can take anywhere from one to three days, depending on the size of the company.

The institution should either design the schedules and routes for the buses, or review the proposed schedules and routes to be sure they are realistic and do not contribute to unsafe driving. By seeking safe routes, requiring sufficient insurance, and requesting an audit, the institution will be taking safety and loss prevention measures that demonstrate due diligence in the securing of its transportation contracts.

LIMITING LIABILITY FOR NON-OWNED VEHICLES

The challenge of regulating the use of non-institutionally owned vehicles when the institution may have liability exposures is one of the more difficult issues an institution may face in managing its vehicle liability.

Liability coverage for non-owned autos is available for autos the college does not own, lease, hire, rent, or borrow that are used in connection with the institution's business. Autos that are owned by employees, trustees, students, volunteers, or members of their households are included in this definition if the autos are used in connection with the institution's business. It is important to note that the coverage applies only for the benefit of the school and not the employee. If coverage is to be provided for the employee, the "employee as insured" endorsement would have to be added.

ENDNOTES

1 "State Law Facts," *Facts, 1995 Edition*, published by the Insurance Institute for Highway Safety, Arlington, Va.

2 Henry Wechsler et al, "Health and Behavioral Consequences of Binge Drinking in College: A National Survey of Students at 140 Campuses," *The Journal of the American Medical Association*, Dec. 7, 1994, page 1676.

3 Clement v. Griffin, 634 So.2d 412 (La.App. 4 Cir. 1994) cert. denied, 637 So. 2d 478 (1994)

4 Jones v. Iowa Central Community College, 972 F.2d 354 (8th Cir. 192)

5 *Accident Facts, 1994 Edition*, published by the National Safety Council.

6 Ibid, p. 25.

7 Lumbermen's Mutual Casualty Company v. Offices Unlimited, Inc., 419 Mass. 462, 645 NE 2d 1165 (1995).

Non-owned auto coverage is not intended to be used for any type of coverage other than liability. In some states, however, uninsured motorist/underinsured motorist coverage may apply to non-owned autos as well as owned autos.

In order for an institution to be covered for the acts of its employees driving non-owned vehicles on college business, the driver must be shown to be acting on behalf of the institution within the scope of his/her responsibilities.

The college should formulate a policy on the use of personal vehicles for university business. The policy should clearly state

RESOURCES

The following organizations are good sources of materials on vehicle safety:

AAA Foundation for Traffic Safety
1440 New York Avenue NW, Suite #201
Washington, DC 20005
Write to them for a list of publications available on safe driving.

Federal Highway Administration
400 7th St. SW, Washington, DC 20590
(202) 366-1790
Contact them for guidance on the Federal Motor Carrier Safety Regulations.

FLI Learning Systems, Inc.
P.O. Box 2233, Princeton, NJ 08540
(609) 466-9000
Contact them for a catalog of vehicle safety training materials.

Insurance Institute for Highway Safety Management
1005 N. Glebe Road, Suite 800
Arlington, VA 22201
(703) 247-1500
Contact them for a free pamphlet, Keys to Fleet Safety, *with information on purchasing safe vehicles.*

National Safety Council
To request a catalog of safety training material and safety institutes, contact one of five regional offices.

Northeast	1-800-432-5251
Southeast	1-800-441-5103
Central	1-800-621-7619
Texas	1-800-771-2855
West	1-800-848-5588

Nonprofit Risk Management Center
1001 Connecticut Avenue NW, Suite 900
Washington, DC 20036
(202) 785-3891
Contact them to order the booklet Avoiding a Crash Course *($9.00 plus shipping and handling). This booklet on auto liability and safety for nonprofits includes a checklist on what a driver should do in case of an accident.*

that drivers use their own vehicles on college business at their own risk, and that the driver's insurance will be primary in the event of an accident. Driver obligations should hold true for all drivers whether they are driving school or personal vehicles.

Conditions for the use of personal vehicles on university business should also be clearly defined. If the institution has the resources, it may wish to strongly encourage the use of university vehicles for student activities as well as staff and faculty travel in order to discourage the use of personal vehicles.

Because it is so difficult for an institution to control the risks associated with the use of non-owned vehicles, the institution will need to carefully consider the practicality of any policy it may adopt. For example, if the school makes a policy that only approved drivers may transport club teams to and from events, the school must be certain it will be able to enforce that policy.

Conclusion

Vehicle liability is a common and potentially severe exposure for colleges and universities. Because the exposure is so pervasive and difficult to control, it is a challenge for institutions to write, implement, and enforce practical and effective vehicle policies and procedures. Each institution must consider its own needs in developing a realistic policy, as there is no one policy that will work for every institution. A comprehensive policy and clear procedures should be adopted by the entire campus community and consistently enforced, and proper insurance should be purchased to finance inevitable losses. Above all, a commitment to vehicle safety from all campus constituencies is essential to effectively manage vehicle liability.

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